



February 16, 2021

Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue NW  
Washington, DC 20551

**Re: IAC Comments - Community Reinvestment Act Regulations - Docket No. R-1723, RIN 7100-AF94**

Dear Secretary Misback:

On behalf of the Intertribal Agriculture Council (IAC) and its Native Farm Bill Coalition, we appreciate the opportunity to comment on the Board of Governors of the Federal Reserve System's Advanced Notice of Proposed Rulemaking (ANPR) on the Community Reinvestment Act (CRA) regulations (Docket No. R-1723, RIN 7100-AF94). The IAC represents federally recognized Tribal Nations and the interests of over 80,000 producers in Indian Country, and the issue of access to credit and financing is one of the top issues facing agriculture development for many tribal communities. We support the efforts of the Federal Reserve's Board of Governors to modernize and improve the CRA, and offer comments to improve access to capital and the service of financial institutions to Indian Country's food producers.

We fully endorse the comments submitted by the Native American Finance Officers Association (NAFOA), and write our comments to provide additional information on why these changes to the CRA are necessary for Tribal agriculture and Tribal food producers. Much of Indian Country is located in credit and banking deserts, and this is especially true in agriculture. The lack of access and unwillingness to support Tribal producers is rooted in financial systems that did not want, nor try, to understand the unique circumstances facing Tribal governments and producers. These systems also saw these types of loans as riskier alternatives lending to non-Natives. We must ensure that in rewriting the CRA regulations that Indian Country is specifically included, and that financial institutions are incentivized and encouraged to make investments in Tribal communities. All of the priorities identified in NAFOA's comments are essential to ensuring that the CRA includes specific measures to address credit needs for Indian Country, and will also go to supporting Tribal agriculture.

Food and agriculture represent substantial sectors of economic development and potential for Tribal communities. According to the 2017 Census of Agriculture nearly 80,000 Tribal producers are operating on over 59 million acres of land and generating over \$3.5 billion in economic activity.<sup>1</sup> Across all sectors, Tribal agriculture is the only place where all numbers of production are increasing from the previous census numbers in 2012. When land is coming back to Tribal communities through programs like the U.S. Department of the Interior's Land Buyback, more than 90 percent of the land is going into agriculture production. However, because of the historic and systemic lack of financial access for tribal producers, the full potential for Indian Country agriculture has not been realized.

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<sup>1</sup> USDA-NASS, *American Indian/Alaska Native Producers*, 2017 Census of Agriculture Highlights, Oct. 2019, available at: [https://www.nass.usda.gov/Publications/Highlights/2019/2017Census\\_AmericanIndianAlaskaNative\\_Producers.pdf](https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_AmericanIndianAlaskaNative_Producers.pdf).

The structure of the CRA, commercial capital systems, and Farm Credit Systems provide little to no incentive for lending in Indian Country agriculture. Inequitable access to these commercial markets often force Tribal producers to U.S. Department of Agriculture's (USDA) Farm Service Agency (FSA) for loans as the lender of last resort. The FSA has also been highly problematic as its systemic issues were litigated in the *Vilsack v. Keepseagle* case which led to a historic \$680 million settlement for Tribal producers who were discriminated against in FSA lending programs. Even before the COVID-19 pandemic, Tribal producers lacked access and inequitable inclusion to agriculture credit in the private financial systems, Farm Credit System, and the USDA-FSA which has disproportionately impacted food systems in Indian Country for generations.

In a 2019 Government Accountability Office report, cited the problem of limited data on the availability and need for credit in Indian Country agriculture,<sup>2</sup> as stating that the jurisdictional issues, Tribal sovereignty, and trust land issues were the cause of the lack of investments. The data and the overall premise of this is inherently false, and shows how the system needs to be changed.

Even though the GAO report does not adequately assess the need for credit, subsequent investments have shown how truly undercapitalized Tribal agriculture is as a sector. In just two years, Akiptan, Inc., a new Native Community Development Financial Institution (CDFI), has financed \$3.8 million in loans to 70 producers in Indian Country. The Native American Agriculture Fund, in less than one year, has provided over \$28 million in grants to support Tribal producers while receiving over \$112 million in requests. While these numbers are more representative of the need, they also show a glaring gap in the availability of financing from the private capital and its potential.

Without proper incentives for credit institutions, they will continue to overlook Indian Country and not make the necessary adjustments to provide support that fits the needs and realities facing our over 80,000 producers. The approach, which is seen in the GAO report, is often looking at the worthiness of potential customers through the lens of how they can fit into the programs at large lending institutions that were created *without* those customers in mind. The inverse, how do we offer lending products and services that fit the needs of underserved customers, will not be a standard practice unless there is an intervening force. Reimagining the CRA regulations to encourage and incentivize inclusion of Indian Country and Tribal borrowers as inherent in the programs ensures a more level playing field that acknowledges the specific lending capacity and programs are necessary to extend capital to Tribal agriculture.

In conclusion, thank you for the opportunity to provide comments on the Federal Reserve Board's ANPR on the Community Reinvestment Act. We support the efforts to modernize the CRA so that it works to empower Indian Country and all underserved communities and ensure they are included and supported in this system.

Sincerely,



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<sup>2</sup> GAO, *Indian Issues: Agricultural Credit Needs and Barriers to Lending on Tribal Lands*, GAO-19-464, May 2019, pg. 9, available at: <https://www.gao.gov/assets/700/699019.pdf>.